



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: [REDACTED] Office: TEXAS SERVICE CENTER

Date: AUG 30 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Two-Year Foreign Residence
Requirement under § 212(e) of the Immigration and Nationality
Act, 8 U.S.C. 1182(e)

IN BEHALF OF APPLICANT:

Self-represented.

Public Copy

INSTRUCTIONS:

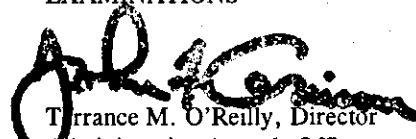
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Terrance M. O'Reilly, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The request for a waiver recommendation was denied by the Waiver Review Officer of the United States Department of State, Visa Office, in Washington, DC. The Director, Texas Service Center, denied the applicant's request for a waiver and certified the decision to the Associate Commissioner for Examinations for review. The decision of the director will be affirmed.

The applicant is a native and citizen of Romania who was admitted to the United States as a nonimmigrant J-1 exchange visitor under section 101(a)(15)(J) of the Immigration and Nationality Act (the Act). The applicant participated in an exchange visitor program in the field of mass communications, i.e. the internet. Accordingly, he is ineligible to apply for an immigrant visa, or for permanent residence, or for certain nonimmigrant visa classifications, pursuant to § 212(e) of the Act, until it is established that the applicant has resided and been physically present in his country of citizenship for an aggregate of at least two years. The applicant seeks a waiver of the two-year foreign residence requirement based on a statement from the applicant's country of citizenship declaring that it has no objection to the waiver.

The Department of State initially recommended that the waiver be granted. However, upon "thorough review of the program and policy considerations," the Department of State subsequently withdrew its initial determination and recommended that the waiver be denied. Accordingly, the director determined that the applicant was ineligible for the waiver.

The applicant has not submitted a brief or other written statement in support of his claim. Accordingly, the record will be considered complete.

Section 212(e) of the Act states, in pertinent part, that:

. . . except in the case of an alien [who came to the United States to receive graduate medical education], the Attorney General may, upon the favorable recommendation of the Director [of the United States Information Agency], waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien. [Emphasis added.]

The functions of the Director of the United States Information Agency have been delegated and vested in the Secretary of State, pursuant to the Foreign Affairs Reform and Restructuring Act of 1998. See Delegation of Authority No. 234, 64 Fed. Reg. 56014 (1999).

In accordance with § 212(e) of the Act, the director of the Texas Service Center may grant a waiver in this matter only upon the favorable recommendation of the Department of State. As the Department of State withdrew its previous recommendation and

advised that the waiver should be denied, the director's decision to deny the application for a waiver of the foreign residence requirement will be affirmed.

ORDER: The decision of the director is affirmed.